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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/631,722	08/03/2000	Gerald Francis McBrearty	AUS000411US1	9218
7590	12/16/2003		EXAMINER	
Joseph T Van Leeuwen P O Box 81641 Austin, TX 78708-1641			AVELLINO, JOSEPH E	
			ART UNIT	PAPER NUMBER
			2143	
			DATE MAILED: 12/16/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No</b>	<b>Applicant(s)</b>
	09/631,722	MCBREARTY ET AL.
	<b>Examiner</b> Joseph E. Avellino	<b>Art Unit</b> 2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 03 December 2003.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 2-11, 13-20 and 22-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 7, 18 and 27 is/are allowed.
- 6) Claim(s) 2-6, 8-11, 13-17, 19, 20, 22-26 and 29 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
 a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)      4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)      5) Notice of Informal Patent Application (PTO-152)  
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.      6) Other:

**DETAILED ACTION**

1. Claims 2-11, 13-20, and 22-29 remain pending for this examination.

***Allowable Subject Matter***

2. Claims 7, 18, and 27 are allowed over the prior art of record.

***Claim Rejections - 35 USC § 112***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 22 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claims 22 and 23 are dependent upon a cancelled claim. Therefore these claims are rejected under 35 USC 112, second paragraph as being indefinite as well as lacking antecedent basis for numerous terms within the claims.

***Claim Rejections - 35 USC § 103***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2-6, 8-11, 13-17, 19, 20, 22-26, 29, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farber et al. (USPN 6,185,598) (hereinafter Farber) in view of Elledge (USPN 6,044,399).

8. Referring to claim 4, Farber discloses a method for selecting a proxy server, said method comprising:

identifying a plurality of proxy servers (repeaters) (e.g. abstract; Figure 1; col. 5, lines 17-25); and

automatically determining at least one of the proxy servers to use when accessing a network, wherein the automatically determining further includes:

receiving a destination address (URL) (col. 8, lines 1-31); and

selecting a proxy server based on the address of the client and the current loads of the proxy servers available to service the request for the resource (col. 12, line 59 to col. 13, line 15).

Farber does not disclose comparing the destination address to a plurality of network addresses, each of the network addresses corresponding with a proxy server identifier. However, when Farber is taken in context with Elledge, which discloses mapping a destination network path (i.e. a local address of a directory on an intranet such as \\dallas\\userdir seen in Figure 5) to a preferred server (Figure 5; col. 7, lines 20-39), one of ordinary skill in the art at the time the invention was made would consider it obvious to modify the teaching of Elledge with Farber to provide a listing of destination addresses and which servers they are mapped to in order to facilitate scalability by allowing the proxy server system to expand without requiring an extensive amount of administrative programming to occur, just the modification of a mapping file.

9. Referring to claim 2, Farber further discloses the automatically determining comprises:

testing a speed for each of the plurality of proxy servers (Applicant uses the term "speed" to be equivalent to "throughput" which is understood to be bytes per time interval) (BSPT) (col. 11, line 59 to col. 12, line 23); and determining a highest speed (selecting the "best" repeater which has the lowest cost) (col. 13, line 6).

10. Referring to claim 3, Farber further discloses the automatically determining comprises:

setting a minimum speed limit for a selected proxy server (configured capacity) (col. 12, lines 5-11);  
comparing a minimum speed limit for a selected proxy server (col. 11, line 65 to col. 12, line 11); and  
testing each of the plurality of servers (proxy servers, see rationale under 112, second paragraph rejection) in response to the speed for the selected proxy server falling below the minimum speed limit (col. 11, line 65 to col. 12, line 11).

11. Referring to claim 5, Farber discloses the invention substantively as described in claim 4. Farber does not disclose returning the proxy server identifier corresponding to the network address that matches the received destination address, but rather returns a proxy server identifier which takes into account the client address and the loads of the individual proxy servers (e.g. abstract). Elledge, discloses that based on the destination network path (which is considered destination address since it defines to which directory the client is requesting access), a preferred server is obtained and returned that the client may access to arrive at the requested destination network path (Figure 7; col. 7, lines 20-29). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Elledge with Farber to facilitate scalability by allowing the proxy server system to expand without requiring an extensive amount of administrative programming to occur, just the modification of a mapping file.

12. Referring to claim 6, Farber discloses the invention substantively as described in claim 4. Farber does not disclose returning a default proxy server identifier in response to the received destination address not matching any of the network addresses. Elledge discloses that the destination network path table can also specify a default preferred server for destination network paths not mapping to any preferred servers defined in the table (col. 7, lines 35-39). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Elledge with Farber to facilitate scalability by allowing the proxy server system to expand without requiring an extensive amount of administrative programming to occur, just the modification of a mapping file.

13. Referring to claim 8, Farber discloses a method of selecting a proxy server as stated in the claims above. Farber does not disclose modifying a proxy configuration setting using the selected proxy server identifier, the proxy configuration setting identifying the proxy server used by a client computer system. In analogous art, Elledge discloses another method of selecting a proxy server which modifies (persistently stores) a proxy configuration setting (identity) using the selected proxy (preferred) server identifier, the proxy configuration setting identifying the proxy server used by a client computer system (col. 4, lines 51-57; Figures 4-5). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Farber with Elledge to ensure obtaining services from the best available

server when taking into account geographical location as supported by Elledge (col. 2, lines 30-38).

14. Referring to claim 9, Farber discloses the identifying further comprises: reading a proxy server identifier associated with each of the proxy servers (col. 8, lines 11-14; col. 12, lines 24-29).

15. Referring to claim 10, Farber in view of Elledge discloses a method of selecting a proxy server substantively as described in claim 4. Farber furthermore states that a table (Load Table) summarizing the overall load for all the proxy servers (repeaters) is contained in the master repeater (col. 12, lines 24-29). Farber does not specifically state that the reflector connects to the reflector and receives the plurality of proxy server identifiers from the master proxy server. However it is well known and expected in the art that directory servers containing complete lists of proxy servers are used and can be downloaded to servers or clients who are allowed to use the system. Therefore it would have been obvious to modify the system of Farber to include downloading the plurality of proxy server identifiers from the second computer system to reduce memory requirements on the reflector and reducing overall processing on behalf of the reflector, thereby increasing efficiency of the system.

16. Claims 11, 13-17, 19-20, 22-26, 28, and 29, recites limitations of claims previously discussed in this Office Action and is therefore rejected for similar reasons as stated in the claims above.

***Response to Amendment***

17. Applicant's arguments with respect to claims 2-11, 13-20, and 22-29 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

19. Smith et al. (USPN 6,311,216) discloses client-side deterministic routing and URL lookup into a distributed cache of URLs.

20. Christensen et al. (USPN 6,330,605) discloses a proxy cache cluster.

21. Cohen et al. (USPN 6,389,462) discloses a method for transparently directing requests for web objects to proxy caches.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (703) 305-7855. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

JEA  
December 9, 2003



DAVID WILEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100